VIRAGE.020C1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant	:	Jain, et al.
Appl. No.	:	10/032,042
Filed	:	December 21, 2001
For	:	VIDEO CATALOGER SYSTEM WITH SYNCRONIZED ENCODERS
Examiner	:	Sanjiv Shah
Group Art Unit	:	2176

CERTIFICATE OF MAILING

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March 2, 2006
(Date)

John M. Carson, Reg. No. 34,303

ON APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES
APPEAL BRIEF

Mail Stop Appeal Brief -- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Appeal Brief relates to an appeal to the Board of Patent Appeals and Interferences of the final rejection set forth in a final Office Action mailed June 2, 2005, and an Advisory Action mailed on October 5, 2005, in the above-captioned application.

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I. REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee of this application, Virage, Inc.

II. RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any related appeals or interferences.

III. STATUS OF THE CLAIMS

The application was originally filed with Claims 1-23. In response to a first Office Action mailed on October 19, 2004, Claims 1, 11, 19, and 22 were amended.

In a second and Final Office Action mailed on June 2, 2005, the Examiner finally rejected Claims 1-8 and 10-23. Claim 9 was objected to as being dependent on a rejected base claim, but was indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In response to the Final Office Action, Claim 11 was amended to include features from Claim 18, and Claim 18 was canceled. An Advisory Action was mailed on October 5, 2005, in which the Examiner entered the amendments submitted in response to the Final Office Action.

IV. STATUS OF AMENDMENTS

All offered amendments have been entered. Thus, Claims 1-17 and 19-23 appear before the Board as they were finally rejected (or objected in the case or Claim 9), and the claims are attached hereto as Appendix A.

V. SUMMARY OF CLAIMED SUBJECT MATTER

As described in the application as filed, embodiments of the invention include methods and systems for video cataloging in which video data is concurrently encoded and cataloged according to predefined or user definable metadata. The metadata is used to index and then retrieve the encoded video. *See Application at p., 2 l. 20 through p. 3, l. 10.*

Claim 1 recites a video cataloger system. The video cataloger system comprises a video cataloger that receives video information. *See Application at p. 7, l. 28 through p. 8, l. 26; Figures 1, 3, and 4.* The video cataloger also receives a plurality of time codes associated with the video information. *See Application at p. 8, ll. 23-24; p. 14, ll. 13-20; Figures 3, 9.* The video cataloger concurrently generates a plurality of digital metadata tracks indicative of the

video information and the time codes. *See Application at p. 11, ll. 5-31; Figures 3, 6.* The video cataloger system also includes a plurality of video encoders. *See Application, page 8, l. 30 through p. 9, l. 29; Figures 1, 4.* Each encoder receives the video information and generates a type of encoded digital video data indicative of the video information. *Id.* The video cataloger system is one wherein the video cataloger controls the video encoders to start and stop encoding and stores the start time of each encoder so that the time codes associated with the digital metadata tracks and the stored start times permit selective access to the encoded digital video data. *See Application, p. 7, ll. 12-26; p. 10, ll. 1-24; p. 18, l. 1 through p. 19, l. 6; Figs. 2, 4, 12.* The system also provides parallel paths of the video information for concurrent receipt and processing by the video cataloger and the video encoders. *See Application, p. 3, ll.3-9; p. 8, ll. 6-11; p. 24, ll. 26-27; Figs. 1, 4, 5, 12, 18.*

Claim 11 recites a method of synchronizing a plurality of digital video encoders with a video cataloger comprising receiving video information at a video cataloger and at a plurality of digital video encoders. *See Application at p. 7, l. 28 through p. 8, l. 26; Figures 1, 3, and 4.* The method further comprises commanding each of the digital video encoders to start encoding, and storing at the video cataloger actual start times associated with the start command for each digital encoder. *See Application at p. 18, l. 15 through p. 19, l. 6; Figs. 5, 12.* The method further comprises encoding the video information at each digital video encoder into a type of encoded digital video data. *Id.* The method further comprises generating digital metadata tracks indicative of the video information at the video cataloger. *See Application at p. 7, l. 27 through p. 8, l. 27; p. 19, ll. 19-24; Figs. 1, 13.* The method further provides that the generating and encoding are performed in parallel and that the video information is received concurrently at the video cataloger and the digital encoders. *Id.*

Claim 19 recites a video cataloger system. The video cataloger system comprises cataloger means for receiving video information and a plurality of time codes associated with the video information, and concurrently generating a plurality of digital metadata tracks indicative of the video information and the time codes. *See Application at p. 7, l. 27 through p. 8, l. 27; p. 19, ll. 19-24; Figs. 1, 13.* The video cataloger system also includes a plurality of video encoders receiving the video information and generating a type of encoded digital video data indicative of the video information. *See Application, page 8, l. 30 through p. 9, l. 29; Figures 1, 4.* The cataloger means also controls the video encoders to start and stop encoding and stores the start

time of each encoder so that the time codes associated with the digital metadata tracks and the stored start times permit selective access to the encoded digital video data. *See Application, p. 7, ll. 12-26; p. 10, ll. 1-24; p. 18, l. 1 through p. 19, l. 6; Figs. 2, 4, 12.* The system also provides parallel paths of the video information for concurrent receipt and processing by the video cataloger and the video encoders. *See Application, p. 3, ll.3-9; p. 8, ll. 6-11; p. 24, ll. 26-27; Figs. 1, 4, 5, 12, 18.*

Claim 22 recites a system for synchronizing a plurality of digital video encoders with a video cataloger. The system comprises means for receiving video information at a video cataloger and at a plurality of digital video encoders via parallel paths within the system. *See Application at p. 8, l. 16-26; p. 9, ll. 4-29; Fig. 4.* The system also includes means for commanding each of the digital video encoders to start encoding. *See Application at p. 10, ll. 11-22; Fig. 5.* The system further includes means for storing actual start times associated with the start command for each digital video encoder. *See Application at p. 10, ll. 10-11.* The system also includes means for encoding the video information at each digital video encoder into a type of encoded digital video data. *See Application at p. 9, ll. 6-30; Figs. 1, 4.* The system further includes means for generating, concurrently with the encoding, digital metadata tracks indicative of video information at the video cataloger. *See Application at p. 7, l. 27 through p. 8, l. 27; p. 19, ll. 19-24; Figs. 1, 13.*

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

This Appeal turns on the following issue:

(1) Claims 1-8, 10-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,613,032 to Cruz, et al.

VII. APPELLANT'S ARGUMENT

A. Claims 1-8, 10-17, and 19-23 are Patentable over Cruz

1. The Examiner's Grounds for Rejection

Regarding Claims 1 and 19, the Examiner stated that "Cruz discloses a 'video cataloger' in figures 2 and 3A. The processor 300 performs the functions of 'receiving video information' (310) and 'a plurality of time codes' (322), and 'concurrently generating a plurality of digital metadata tracks ....' (335, also fig 3B, abstract)." *Final Office Action at page, 2, para. 4..*

The Examiner further stated that Cruz teaches metadata tracks in the abstract, lines 3-12, "in which Cruz discloses, the recording sources each captures a continuous temporal record or track of the multimedia event and transmits the captured track to the source preprocessor where tracks are coded into digital blocks and digitized blocks of tracks received simultaneously are time stamped with the same relative time, and therefore synchronized in time. Tracks of the multimedia event are also compressed and preprocessed to generate **other representations of the multimedia event,** which further assists users in searching through the multimedia event." *Final Office Action at page 3, para. 1 (bolded emphasis in original).* The Examiner also pointed to Cruz's Figure 3B, stating that it "illustrates a track-mapping table. Here it is clear that the tracks include 'metadata', i.e., data that includes information indicative of the information included in the multimedia data." *Final Office Action at page 3, para. 1.*

The Examiner further stated that "[r]egarding 'plurality of video encoders', in fig 3A, Cruz illustrates processing and digitizing multimedia data from a plurality of recording sources (310, 320), and therefore, at least implicitly teaches the 'plurality of video encoders'." *Id.* The Examiner further stated that "Cruz implicitly teaches 'wherein the video cataloger controls the video encoders to start and stop encoding and stores the start time of each encoder so that the time codes associated with the digital metadata tracks and the stored start times permit selective access to the encoded digital video data'. See Cruz's abstract (last few lines), in which he discloses adjusting the delivery of tracks based upon relative time information associated with a new position established after searching through a track of multimedia event". *Final Office Action at page 3, para. 2.* The Examiner also stated that "Cruz teaches providing parallel path [sic] of the video information for concurrent receipt and processing by the video cataloger and the video encoders as shown in fig 3A, element 201-1.....201-n." *Final Office Action at page 4, para. 1.*

The Examiner recognized that Cruz fails to teach "receiving a plurality of time codes" as recited in the claims, but instead stated: "Cruz teaches generating time codes (as opposed to the claim language ...). However it would have been obvious to one of skill in the art at the time of invention to 'receive time codes' because it was notoriously well known in the art at the time of the invention to include time codes in multimedia data." *Final Office Action at page 4, para.* 2.

In finally rejecting Claims 11, 12, 22, and 23, the Examiner pointed to "the rational relied upon in rejecting claim 1." *Final Office Action at page 4, para. 4.* The Examiner further stated

that "regarding 'storing actual start times associated with the start command for each digital encoder at the video cataloger', refer to Cruz's fig 3A (310, 320, 322)." *Id.* The Examiner recognized that "Cruz does not explicitly teach 'storing actual start times associated with the start command', but it would have been obvious to one of ordinary skill in the art at the time of the invention to do so in view of his teaching of time stamping the digitized information. Since the track mapping store (335) is directly associated with the digitizer (320), it follows logically (See the information flow in fig#A) [sic] that the 'start command' will be directly associated with a time stamp." *Id.*

2. The Legal Standard

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings, and the prior art references, when combined, must teach or suggest all the claim limitations. M.P.E.P. § 2143. Also, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

3. Cruz Fails to Teach or Suggest Parallel Paths of the Video Information for Concurrent Receipt and Processing by the Video Cataloger and a Plurality of Video Encoders

Cruz fails to teach the Applicant's claimed feature of a "video cataloger . . . provid[ing] parallel paths of the video information for concurrent receipt and processing by the video cataloger and the video encoders" as recited in Claim 1, and similarly in Claims 11, 19, and 22. The Cruz system describes a system for recording and playing multiple aspects or perspectives of a same multimedia event, where each aspect of the event is assigned to a "track". For example, as Cruz states at column 15, lines. 32-37, "[o]ur system and method for recording and playing back multimedia events entail capturing multimedia continuous temporal records or tracks representing various aspects of a multimedia event, coding the tracks into digitized blocks, and time stamping each block such that the tracks of the multimedia event are synchronized in time." Thus, the general idea set forth by Cruz is to allow recordings of a single event from various perspectives and angles so that the separate recordings can be put together at a later time to provide a more fuller and more complete multimedia record of that event.

Cruz uses a preprocessor as shown in Figures 2 and 3A to process the track corresponding to one aspect of the multimedia event in parallel with the track corresponding to another aspect of the event. Thus, as shown in Figure 3B, tracks 2 and 3 correspond to separate video camera sources that are processed in parallel throughout the preprocessor (300) as shown in Figure 3A. This processing first involves simultaneously digitizing each of the tracks in digitizer 320. Once the digitizer has completed its work, the digitized multimedia data is then sent to the time stamp processor 322, the compressor 330, and then to the synthetic track generator 350.

As described in Cruz, a single digitizer operates on the tracks received from the multiple recording sources 201-1 through 201-n. The synthetic track generator 350 is the only component of Cruz that can generate other representations of multimedia events as derivative tracks or records as demonstrated by Cruz's statement that prior to reaching the synthetic track generator 350, the tracks are "original tracks or records, and which are digitized and time stamped representations of information transmitted from the recording sources." See Cruz, column 6, lines 59-61. Thus, the synthetic track generator 350 is the only component of Cruz that can arguably correspond to the claimed feature of a "video cataloger ... generating a plurality of digital metadata tracks indicative of video information."

Independent claims 1, 11, 19, and 22 differ from the structure and process described in Cruz because the separate and serial nature of the processing that occurs in Cruz is substantially different from the concurrent and parallel processing that is recited in each of the independent claims. As recited in part in Claim 1, and similarly in the other independent claims, "the system provides parallel paths of the video information for concurrent receipt and processing by the video cataloger and the video encoders". Thus, video information is provided via parallel paths to be concurrently received by both the video cataloger and by the plurality of video encoders. After both the video cataloger and the video encoders have each received the video information, they proceed to process the information concurrently. Thus, as shown in Applicant's Figures 1 and 4, the source information from the analog source (102) is provided in parallel to the video cataloger (110) and the plurality of video encoders (123, 125, and 127). The source information is then processed concurrently by the video cataloger and the plurality of video encoders.

In contrast, the system described in Cruz shows the information from the recording sources (201-1 ... 201-n) first being received into the digitizer (320), and only when the digitizer has completed the digitizing process does it then send the already digitized information to the

time stamp processor (322), the compressor (330), and the synthetic track generator (350). Thus, because the digitization process in Cruz is completed before the synthetic track generator receives the data (see also Cruz, Fig. 8A), Cruz cannot possibly disclose "parallel paths of the video information for concurrent receipt and processing by the video cataloger and video encoders" as recited in Claim 1, and similarly in Claims 11, 19, and 22.

The Final Office Action mailed on June 2, 2005 identifies the elements 201-1...201-n in Figure 3A as showing parallel paths of the video information for concurrent receipt and processing by the video cataloger and the video encoders. However, as discussed above, in Cruz the information received from the recording source is first received and processed by the digitizer, and only upon completion of the digitization process is the digitized data sent to anything that can arguably be considered a video cataloger. Thus, Cruz does not disclose concurrent receipt and processing by the video cataloger and video encoders as provided in the claims.

4. Cruz Fails to Teach or Suggest Generating Video Data Indicative of the Video Information as Recited in Claims 1 and 19

Moreover, as the system described in Cruz is one wherein each track of data that emerges from the track generator (350) includes different video information from the other tracks or data, it cannot be considered to show the feature of "each encoder receiving the video information and generating a type of encoded digital video data indicative of the video information" as recited in Claims 1 and 19.

In particular, because Cruz assigns each perspective/aspect of a recorded event to a separate track, each track necessarily carries different video information. For example, a first track may carry video information recorded by a camera focused on a person speaking behind a podium, while a second track may carry video information recorded by a camera focused on a blackboard or slide show presentation used by that same person while speaking from behind the podium. Thus, unlike the system and method described in Claims 1 and 19 where the same video information is generated by different encoders, Cruz discloses a system where different video information is generated by the same encoder. Thus, for this additional reason, Claims 1 and 19 are allowable over Cruz.

5. **Cruz Fails to Teach or Suggest Commanding Video Encoders and Storing Actual Start Times at the Video Cataloger as Recited in Each Independent Claim**

Claim 11 (and similarly for Claims 1, 19 and 22) recites in part: "commanding each of the digital video encoders to start encoding" and "storing actual start times associated with the start command for each digital video encoder at the video cataloger". The Final Office Action does not specifically point to any portion of Cruz that shows "commanding each of the digital video encoders to start encoding." It appears that the Examiner considers this claimed feature to be implicit in Cruz, as he stated: "See the information flow in fig #A that the 'start command' will be directly associated with a time stamp." *Final Office Action, page 4, para. 4.*

The Final Office Action recognizes that Cruz "does not explicitly teach 'storing actual start times associated with the start command'." To cure this deficiency, the Examiner stated that "it would have been obvious to one of ordinary skill in the art at the time of invention to do so in view of his teaching of time stamping the digitized information." *Id.*

Applicant submits that that the Examiner has done no more than *attempt* to point to the features of the claimed invention by modifying Cruz without any real attempt to show a suggestion for its modification.

> "If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding ***prior art corollaries*** for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention."

In re Rouffet, 47 U.S.P.Q.2d 1453, 1457 (Fed. Cir. 1998) (emphasis added).

Disregarding the holding in *Rouffet*, the Examiner has simply modified the prior art using Appellant's claimed invention as a blueprint. There is no suggestion in Cruz to modify the reference as alleged by the Examiner, and in fact, the reference tends to teach away from "storing actual start times associated with the start command for each digital video encoder at the video cataloger" as recited in the claims.

As discussed above, the system described in Cruz first digitizes video received from multiple sources (201-1 ... 201-n) and then it sends the digitized video to a synthetic track generator (350). However, as shown in Figure 3A of Cruz, digitized video data is sent to the synthetic track generator (350) by way of the time stamp process (322) where the digitized tracks from the digitizer (320) are synchronized in time relative to "the initiation of the multimedia

event." *See Cruz, column 6, lines 23-24.* Thus, the purpose for time synchronization in Cruz is to account for situations where recording devices were not all started at the time while recording the same multimedia event from different perspectives. That is why the start time of the recording devices is stored rather than the start time of the encoder devices as recited in the claims. Prior to ever generating any metadata about the digitized multimedia tracks, the digitized video has already been synchronized. Thus, there would be no reason at all to have the video cataloger in Cruz "stor[e] actual start times associated with the start command for each digital video encoder so that the time codes associated with the digital metadata tracks and the stored start times permit selective access to the encoded digital video data" as recited in Claim 11 and similarly in Claims 1, 19, and 22.

6. Claims 1, 11, 19, and 22 Are Thus Patentable

Thus, as Cruz fails to teach each and every feature in Claims 1, 11, 19, and 22, and the Examiner has failed to point to any teaching or suggestion to modify Cruz to achieve each feature recited in the claims, the Applicant respectfully submits that Claims 1, 11, 19, and 22 are in condition for allowance.

Because Claims 2-10, 12-17, 20-21, and 23 depend from Claims 1, 11, 19, and 22 respectively, pursuant to 35 U.S.C. § 112, ¶ 4, they incorporate by reference all the limitations of the claim to which they refer. It is therefore submitted that these claims are in condition for allowance at least for the reasons expressed with respect to the independent claims, and for their other features.

B. Conclusion

In view of the foregoing arguments, Appellant respectfully submits that Claims 1-17 and 19-23 are patentable over the prior art of record.

VIII. APPENDICES

Attached hereto as Appendix A is a copy of finally rejected Claims 1-17 and 19-23 in the present case. Also attached is Appendix B for inclusion of evidence and indicating no evidence is included, and Appendix C for inclusion of information regarding related proceedings and indicating no information regarding related proceedings is included.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 2, 2006

By: _____

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APPENDIX A: CLAIMS

(Claims as finally rejected)

1. (Previously presented) A video cataloger system, comprising:

a video cataloger receiving video information and a plurality of time codes associated with the video information, and concurrently generating a plurality of digital metadata tracks indicative of the video information and the time codes; and

a plurality of video encoders, each encoder receiving the video information and generating a type of encoded digital video data indicative of the video information;

wherein the video cataloger controls the video encoders to start and stop encoding and stores the start time of each encoder so that the time codes associated with the digital metadata tracks and the stored start times permit selective access to the encoded digital video data, and wherein the system provides parallel paths of the video information for concurrent receipt and processing by the video cataloger and the video encoders.

2. (Original) The system of Claim 1, wherein the video information is provided by a videotape deck.

3. (Original) The system of Claim 1, wherein the video information is provided by a live satellite feed.

4. (Original) The system of Claim 1, wherein the video encoders include at least one encoder to generate digital data encoded to an MPEG standard.

5. (Original) The system of Claim 1, wherein the video encoders include at least one streaming video encoder.

6. (Original) The system of Claim 1, wherein the video cataloger and the encoders each reside on individual computers, the computers being connected in a computer network.

7. (Original) The system of Claim 1, wherein the digital metadata tracks include one or more of the following: keyframe, close caption text, audio class, speech, speaker identification, keyword and clip.

8. (Original) The system of Claim 1, wherein the video information time codes are SMPTE time codes.

9. (Original) The system of Claim 1, additionally comprising:

a digital metadata track server receiving the digital metadata tracks from the video cataloger; and

a content server receiving the encoded digital video data from at least one of the video encoders,

wherein the system provides access to the metadata track server and the content server via a communications network to computing devices, and

wherein the content server receives requests from the metadata track server to send encoded digital video data to a selected one of the computing devices.

10. (Original) The system of Claim 1, wherein the video information is received from a digital source.

11. (Previously Presented) A method of synchronizing a plurality of digital video encoders with a video cataloger, comprising:

receiving video information at a video cataloger and at a plurality of digital video encoders;

commanding each of the digital video encoders to start encoding;

storing actual start times associated with the start command for each digital video encoder at the video cataloger;

encoding the video information at each digital video encoder into a type of encoded digital video data; and

generating digital metadata tracks indicative of the video information at the video cataloger;

wherein the generating and the encoding are performed in parallel in a system, and wherein the video information is received concurrently at the video cataloger and at the plurality of digital video encoders.

12. (Original) The method of Claim 11, additionally comprising the step of accessing the encoded digital video data from one of the digital video encoders based on data located in at least one of the metadata tracks and the stored start time.

13. (Original) The method of Claim 11, additionally comprising repeating the aforementioned acts a plurality of times thereby generating a digital video library.

14. (Original) The method of Claim 13, additionally comprising browsing the digital video library using the digital metadata tracks as indices into the encoded digital video data.

15. (Original) The method of Claim 11, wherein the video information is received from a videotape deck.

16. (Original) The method of Claim 11, wherein the video information is received from a real-time source.

17. (Original) The method of Claim 11, wherein the video information is received from a digital videocamera.

18. (Canceled).

19. (Previously presented) A video cataloger system, comprising:

cataloger means for receiving video information and a plurality of time codes associated with the video information, and concurrently generating a plurality of digital metadata tracks indicative of the video information and the time codes; and

a plurality of video encoders, each encoder receiving the video information and generating a type of encoded digital video data indicative of the video information;

wherein the cataloger means controls the video encoders to start and stop encoding and stores the start time of each encoder so that the time codes associated with the digital metadata tracks and the stored start times permit selective access via a communications network to the encoded digital video data, and wherein the system provides parallel paths of the video information for concurrent receipt and processing by the cataloger means and the video encoders.

20. (Original) The system of Claim 19, wherein the digital metadata tracks include one or more of the following: keyframe, close caption text, audio class, speech, and clip.

21. (Original) The system of Claim 19, wherein the selective access via the communications network is provided to a selected one of a plurality of client devices.

22. (Previously presented) A system for synchronizing a plurality of digital video encoders with a video cataloger, the system comprising:

means for receiving video information at a video cataloger and at a plurality of digital video encoders via parallel paths within the system;

means for commanding each of the digital video encoders to start encoding;

means for storing actual start times associated with the start command for each digital video encoder;

means for encoding the video information at each digital video encoder into a type of encoded digital video data; and

means for generating, concurrently with the encoding, digital metadata tracks indicative of the video information at the video cataloger.

23. (Original) The system of Claim 22, additionally comprising means for accessing the encoded digital video data from one of the digital video encoders based on data located in at least one of the metadata tracks and the stored start time.

APPENDIX B: EVIDENCE

None

APPENDIX C: RELATED PROCEEDINGS

None